



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733

March 19, 2004

**NOTICE/104(e) REQUEST LETTER SENT VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
URGENT LEGAL MATTER; PROMPT REPLY REQUESTED**

Henry T.T. Lucky, Inc.  
Mr. Henry A. Davidson, President  
9222 Easthaven Boulevard  
Houston, Texas 77075

9076132



**Re: The Jones Road Ground Water Plume Superfund Site, Houston, Harris County, Texas Site ID No.: NK; CERCLIS #TXN000605460; A Written Notice of Your Potential Liability and a Request for Information Pursuant to CERCLA Section 104(e), 42 U.S.C. Section 9604(e)**

Dear Mr. Davidson:

The purpose of this letter is to provide you with written notice of your potential liability at the Jones Road Ground Water Plume Superfund Site, Houston, Harris County, Texas, and a request for information.

**NOTICE**

The United States Environmental Protection Agency (EPA) has determined that hazardous substances were released and/or a substantial threat of such a release into the environment exists at the Jones Road Ground Water Plume Site located in Houston, Harris County, Texas. The Superfund law gives EPA the authority to respond to releases or threatened releases of hazardous substances that may endanger public health or the environment. The EPA has concluded that a response action is necessary to abate the hazard at this Site. The response action will consist of the removal and offsite disposal of hazardous materials and contaminated soils presently identified on the Site and the initiation of a site characterization to determine whether additional contaminated soil areas remain.

This letter is also being sent to you to notify you of your potential responsibility for cleaning up this Site under the Superfund law. Under the law, responsible parties must pay for all costs of cleaning up contaminated sites. The law, under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a), lists the following categories of responsible parties: (1) current owners and operators; (2) past owners or operators during the time hazardous substances were disposed of at the facility; (3) generators of the hazardous substances; or (4) transporters who selected or transported the hazardous substances to the facility.

It is EPA's understanding that you either owned or operated a facility that generated, stored or disposed of hazardous materials. Therefore, you fall under one of the categories of responsible parties listed above.

As a result of a Phase I Environmental Site Assessment in June 2001, the Texas Commission on Environmental Quality (TCEQ) found evidence of a confirmed release of tetrachloroethene (PCE) into ground water. The TCEQ discovered a leakage from the dry cleaning machine into the storm drains behind Bell Dry Cleaners. Soil and ground water samples taken from the west side and the front side of Bell Dry Cleaners indicated levels of PCE, cis-1,2-dichloroethene (DCE) and trichloroethene (TCE) above the TCEQ Texas Risk Reduction Program (TRRP) standards. Bell Dry Cleaners, was located at 11600 Jones Road, Suite 101, Houston, Texas, and its period of operation is believed to have been from the early 1990's to 2002.

If you believe that EPA has made an error in identifying you as a party who owns and/or arranged for disposal or treatment of a hazardous substance at the Site, please provide us with information supporting your position.

The EPA also requests that Bell Dry Cleaners (hereinafter Bell Dry Cleaners is referred to as "Bell," "you" or "your") provide certain information regarding the nature or extent of a release of dangerous hazardous substances into the environment at the Jones Road Ground Water Plume Site. Based on sampling results from drinking water wells in 2001, 2002, and 2003, a ground water plume containing elevated levels of PCE and TCE originated from an unidentified source(s). This plume is suspected to be located near Jones Road, in Harris County, and has been detected in a water supply well located off of Jones Road in Harris County.

The EPA believes your company may have information relating to the Site. In accordance with Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9604(e)(2), EPA has the authority to request information of this nature. This letter seeks your company's cooperation in providing information and documents relating to the contamination of the Site and to the ability of persons to pay for or to perform a cleanup.

Pursuant to the authority of CERCLA Section 104(e), you are hereby requested to respond to the enclosed information request. As explained in the enclosed information request, if you do not respond to this request for information, or if you respond in an incomplete manner, EPA may issue an order requiring you to respond, and violation of such an order can mean significant monetary penalties.

### **YOUR RESPONSE TO EPA**

Please contact EPA Enforcement Officer, Mr. Kenneth Talton, at (214) 665-7475 or the address listed below within **thirty (30) days** of your receipt of this letter to discuss your liabilities and your intent to participate in the cleanup of the site. You also have **thirty (30) days** to respond to the enclosed information request. You or your attorney may also contact EPA Attorney, Mr. James Bove, at (214) 665-2794 or the address listed below.

Your oral, and written, response should be provided to Mr. Kenneth Talton at the following telephone number and address:

Mr. Kenneth Talton, Enforcement Officer  
U.S. Environmental Protection Agency  
Region 6  
Superfund Cost Recovery Section (6SF-AC)  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
(214) 665-7475  
FAX # (214) 665-6660  
E-mail: [talton.chuck@epa.gov](mailto:talton.chuck@epa.gov)

In your response, please indicate an appropriate name, address, and telephone number for further contact.

Specific legal questions concerning this request should be directed to:

Mr. James Bove, Attorney  
U.S. Environmental Protection Agency  
Region 6  
Office of Regional Counsel  
Superfund Branch (6RC-S)  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
(214) 665-2794  
FAX # (214) 665-6460  
E-mail: [bove.james@epa.gov](mailto:bove.james@epa.gov)

We encourage you to give this matter your immediate attention and request that you provide a response within **thirty (30)** calendar days. Thank you in advance for your cooperation. We look forward to working closely with you in the future.

Sincerely yours,



Myron O. Knudson, P.E.  
Director  
Superfund Division

Enclosures:

cc: Mr. Wesley G. Newberry  
Texas Commission on Environmental Quality  
PA/SI Program Technical Director

Ms. Melissa Cordell  
Texas Commission on Environmental Quality  
Site Investigation Manager

Ms. Kelley Cook  
Texas Commission on Environmental Quality  
PA/SI Program Manager

Mr. Alexander C. Chae  
Gardere Wynne Sewell, L.L.P.  
for Bell Dry Cleaners  
1000 Louisiana, Suite 3400  
Houston, Texas 77002-5007

Mr. William J. Jackson, Attorney  
Connelly, Baker, Wotring & Jackson, L.L.P.  
for Henry T.T. Lucky, Inc.  
700 Louisiana, Suite 1850  
Houston, Texas 77002

## ENCLOSURE 1

### INFORMATION REQUEST

The U.S. Environmental Protection Agency (EPA) is making this information request to Bell Dry Cleaners (hereinafter Bell Dry Cleaners is referred to as "Bell," "you" or "your"), under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund") Section 104(e). CERCLA Section 104(e) may be found in the United States Code ("U.S.C.") at Title 42 Section 9604(e) (section is denoted by the symbol "§").

Compliance with this Information Request is mandatory. If you do not respond fully and truthfully to this Information Request within **30 calendar days** of your receipt of this request, the EPA may issue an order which requires you to respond. If you violate such an order, CERCLA permits EPA to seek the imposition of penalties of up to \$27,500.00<sup>1</sup> for each day of continued noncompliance.

Furnishing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. Should you later find that any portion of your submission is incorrect or false, you should notify EPA as soon as possible.

This Information Request is not subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501, et seq.

### INSTRUCTIONS

1. Please provide a separate response for each and every question or request for documents listed below in this information request.
2. Precede each response to a question with the question and the number of the question. For example, for question number 1, before your response, you should write or type:

"1. *Identify the person(s) answering these questions on behalf of your company.*"

3. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise nonconfidential documents should be identified clearly and may be submitted separately to facilitate identification and handling by EPA. If you make a confidentiality claim, the information covered by that claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in subpart B

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<sup>1</sup>Statutory penalty provisions have been increased by 10 percent (in this case from \$25,000 to \$27,500) for events occurring after January 30, 1997, by the Debt Collection Improvement Act of 1996 and its implementing regulations, the Civil Monetary Penalty Inflation Rule, 61 Fed. Reg. 69,360 codified at Title 40 of the Code of Federal Regulations (CFR) Part 19.

of 40 the Code of Federal Regulations ("CFR") Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

### **DEFINITIONS**

Please use the following definitions in interpreting the questions and requests for documents in this Information Request:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any," as in "any documents" for example, shall mean "any and all."
3. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of memory generally associated with computers and data processing; and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
4. The term "hazardous substance" shall have the same definition as that contained in Subsection 101 (14) of CERCLA, 42 U.S.C. § 9601 (14), and includes any mixtures of such hazardous substances with any other substances. The hazardous substances are listed at 40 CFR § 302.4.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses and telephone numbers, and present or last known job title, position or business.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (*e.g.*, corporation (including state of incorporation), partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.

7. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (e.g., invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.
8. The term "identify" means, with respect to a piece of real property or property interest, to provide the legal description which appears in the county property records office, or in the equivalent office which records real property transactions for the area which includes the real property in question.
9. The terms "includes," or "including" shall not be construed as words of limitation; that is, they shall be construed such that the phrases "without limitation" or "but not limited to" are implied, unless such phrases are already in place. For example, "including x, y, and z" would be construed as "including without limitation x, y, and z" or as "including, but not limited to, x, y and z," but the phrase "including without limitation x, y and z" would be construed as it reads.
10. The term "you" or "your" shall mean your company's and its officers, board of directors, principals, managers, employees, contractors, and agents.
11. The term "PCE" shall mean the chlorinated solvent tetrachloroethene which is also known as perchloroethylene or PCE. PCE is generally used as a dry cleaning fluid or a degreasing agent in motor vehicle maintenance.
12. The term "TCE" shall mean the chlorinated solvent trichloroethene which is also known as trichloroethylene or TCE. TCE is generally used as a degreasing agent in motor vehicle maintenance.
13. The term "person" shall mean an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body. *See* Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).
14. The term "property interest" means any interest in property including but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.
15. The term "release" has the same definition as that contained in Subsection 101 (22) of CERCLA, 42 U.S.C. § 9601 (22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
16. The terms "Site" shall mean the area that is located at and around the intersection of Jones Road in Houston, Harris County, Texas, including without limitation the subsurface area and ground water which underlies the area. The Site is described in the enclosed map (Enclosure 3).

17. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

18. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, or 40 CFR Part 300, in which case the statutory or regulatory definitions shall apply.

### **QUESTIONS**

**Note:** Certain terms are in *italics* to call your attention to their definition above.

1. *Identify the person(s)* answering these questions on behalf of your company.
2. For each and every question contained herein, *identify any persons consulted* in the preparation of the answer.
3. If you know of information or *documents* responsive to *any* question in this Information Request that are not in your possession, *identify* the person from whom such information or *documents* may be obtained.
4. *Identify any person* you think may be able to provide a more detailed or complete response to any question contained herein, along with the additional information or *documents* that you think they may have.
5. *Identify any person* that operated your company.
6. *Identify any person, including* your company's employees, who have knowledge, information or *documents* about the generation, production, use, purchase, treatment, storage, disposal or other handling of *PCE or TCE* or transportation of *PCE or TCE* to, on, or about the Site.
7. Describe any *releases* of any materials containing PCE or TCE that have occurred at the Site. As part of the description, provide the following information:
  - a) When such *release* occurred;
  - b) How the *release* occurred;
  - c) The approximate amount of PCE or TCE *released*;
  - d) If the property upon which the *release* occurred was owned or operated by your company, *identify* the property upon which the release occurred;
  - e) A description of any activities undertaken in response to each such *release*; and
  - f) A description of any investigations of the circumstances, nature, extent, or location of each *release* including the results of any soil, water (ground and surface), or air testing undertaken.
8. *Identify any property interest* that you hold in any property located within the Site.



## REQUESTS FOR DOCUMENTS

9. Please *identify* and provide a copy of all *documents* consulted, examined, or referred to in the preparation of the answer to question 6 including all subparts of that question, or that contain information responsive to the question. For each *document* copy produced in response to this request for *documents*, indicate on the *document*, or in some other reasonable manner, the subpart (e.g., a, b, c, d, e, or f) of question 6 to which it corresponds.
10. Please provide copies of *documents* indicating the timeframe of operation of your company; such as operating permits, inspections, etc. Indicate on the *documents*, or in some other reasonable manner, the number 10.
11. Please provide copies of all *documents* memorializing property interests described in response to question 8 above, including without limitation deeds, leases, and easement records. For each *document* copy produced in response to this question indicate on the copy, or in some other reasonable manner, the number 11.
12. Please provide the names of former employees, or other persons with knowledge of the operations and waste handling practices at your facility. Also, provide their position within the facility, dates of employment, present address and phone number, if known.

ENCLOSURE 2

parties receiving letter:

DTD Jones Road Property Investments  
9222 Easthaven Blvd.  
Houston, Texas 77075-1763

Mr. William L. Morgan, Registered Agent  
for DTD Jones Road Property Investments  
12815 Gulf Freeway  
Houston, Texas 77034

Mr. Jimmy Kim  
Bell Dry Cleaners  
11600 Jones Road, Suite 101  
Houston, Texas 77070

Mr. Jimmy Kim  
9307 Tepee Trail  
Houston, Texas 77064

Mr. Jimmy Kim  
9110 Jones Road  
Houston, Texas 77065

Mr. Chun H. Kim  
9307 Tepee Trail  
Houston, Texas 77064

Henry T.T. Lucky, Inc.  
Mr. Henry A. Davidson, President  
11600 Jones Road, Suite 108  
Houston, Texas 77070

Henry T.T. Lucky, Inc.  
Mr. Henry A. Davidson, President  
9222 Easthaven Boulevard  
Houston, Texas 77075

ENCLOSURE 3

Site Map:



# Jones Road Ground Water Plume, Harris County, Texas

EPA ID:  
TXN 000 605 460

## Legend

[Concentrations Reported  
in Parts Per Billion (ppb)]  
Data Used Includes  
Preliminary Results

- Above the Maximum Contaminant Level (MCL\*) of 5 ppb for Tetrachloroethene (PCE) or Trichloroethene (TCE), at One Time and Has a Filtration System Installed
- ⊕ Detection of Tetrachloroethene or Trichloroethene, But Below Their MCLs of 5 ppb
- ⊙ No Detections of PCE, TCE, or DCE

\*MCL = The highest level of a contaminant that is allowed in drinking water.  
ND = Not Detected

Water Wells Sampled  
During February 2003

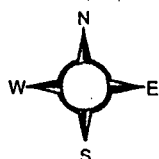
Tetrachloroethene (PCE)  
Concentrations in ppb

As of March 25, 2003



## Source

The base data used is the Satsuma NW and SW, Texas Digital Orthoquarter Quadrangles (DOQQs), which are digital versions of aerial photographs. These DOQQs were produced by the TNRC using U.S. Geological Survey guidelines. UTM NAD 83 Zone 15



0.06 0 0.06 0.12 Miles